(34)

HIGH COURT OF CHHATTISGARH; BILASPUR

CRIMINAL REVISION NO. 566/2004

Petitioner: Dinesh Kumar, s/o. Baldao, aged about 20 years, r/o. village Baseen, P.S. Pulgaon, Dist. Durg (CG).

Vs.

Respondent: State of Chhattisgarh.

And

CRIMINAL REVISION NO. 567/2004

Petitioner: Ram Naresh, s/o.Kripa Ram aged about 21 years, r/o. village Baseen, P.S. Pulgaon, Dist. Durg (CG).

Vs.

Respondent: State of Chhattisgarh.

Shri Y.C. Sharma, Counsel for the petitioner in Criminal Revision No. 566/2004.

Mrs. Hamida Sudduqui, Advocate appears as Amicus Curiae for the petitioner in Criminal Revision No.567/2004.

Shri Vinod Shrivastava, Govt. Advocate for the State.

O R D E R

(Passed on 6th April, 2005)

PRESENT:

HON'BLE SHRI JUSTICE VIJAY KUMAR SHRIVASTAVA

Petitioners Ram Naresh and Dinesh Kumar who have been convicted under Section 34 (2) of the Excise Act and sentenced to undergo R.I. for one year and to pay fine of Rs.25,000/- and in

default of payment of fine to undergo additional S.I for three months in Criminal Case No. 187/2001 passed by Additional Chief Judicial Magistrate, Durg on 25/08/2003, preferred Criminal Appeal No. 386/2003 which was heard and decided by learned First Additional Sessions Judge, Durg, vide his judgment dated 08/09/2004, while maintaining the conviction and sentence passed by the trial Court, dismissed the appeal. Being aggrieved by the aforesaid orders of conviction and sentence, petitioners have preferred the criminal revisions challenging the findings and conviction.

2) For disposal of both these revisions, facts material in brief compass, are that on 30/07/2001 B.R. Sinha, SHO, Nandani Nagar accompanied with his staff was on patrolling duty who on receiving information regarding illicit liquor trafficking, arranged a raid and caught one Commander Jeep M.P. 24G/1534. Both the petitioners were found in the vehicle having in their possession illicit Goa Brand English liquor containing 22 cartons containing 48 quarters in each. The liquor was seized. Petitioners failed to disclose any authority regarding its legal possession. The liquor was got examined by the Excise sub-Inspector and on examination the material was found to be liquor. After due investigation charge-sheet has been filed. Ashwani Thakur said to be in the vehicle, who on seeing Police party fled away from there. Petitioners abjured their guilt and their defence was that earlier the Police demanded vehicle, but they failed to manage and as a result thereof petitioners have been falsely implicated in the case.

3) Both the Courts below after minutely evaluating the evidence have come to the conclusion that both the petitioners were found trafficking illicit liquor having more than 50 bulk litres. On

record there is bountiful evidence to support the said findings. B.R. Sinha, SHO (PW.4), Pawan Singh, Sr. Constable (PW/2), Rajendra Singh Raiput (PW/6) and Ashok Kumar Sharma (PW/7) have supported the recovery of illicit liquor from the possession of both the petitioners. A.K. Singh (PW/3) vide his evidence, has certified the said material to be the country made whisky (liquor).

4) The revisional Court does not sit and exercise the power as appellate Court. Therefore, if the Courts below have on sufficient evidence and after due appreciation arrived at any conclusion that cannot be interfered with by the revisional Court and in my opinion no substantial illegality or irregularity appears in the appreciation made by both the Courts below.

5) No other contentions have been raised.

6) In the result, revision filed by the petitioner Ram Naresh bearing Criminal Revision No. 567/2004 and revision filed by the petitioner Dinesh Kumar bearing Criminal Revision No. 566/2004 fail and are dismissed.

Sd/-
V.K.Shrivastava
Judge

RAJU